

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

Case No.: 3:17-cv-05806-RJB

DECLARATION OF JOAN K. MELL
ATTACHING DEPOSITION EXCERPTS
OF STATE'S 30(b)(6) DEPOSITION OF
COLLEEN MELODY IN SUPPORT OF
JOINT DISCOVERY MOTION

I, Joan K. Mell, make the following statement under oath subject to the penalty of perjury pursuant to the laws of the United States and the State of Washington:

1. I am the attorney for The GEO Group, Inc. in the above-captioned matter. I am over the age of eighteen (18), and I am competent to testify in this matter.
2. Attached are true and correct copies of excerpted pages from the deposition of the State's speaking agent Colleen Melody. This deposition testimony GEO cites in the responsive portion of the joint motion on discoverability of GEO's profits.

Dated this 18th day of September, 2018 at Fircrest, WA.

III Branches Law, PLLC

DECLARATION OF JOAN K. MELL ATTACHING STATE'S 30(b)(6) Deposition of Colleen Melody
In Support of Joint Discovery Motion -
3:17-cv-05806-RJB

1 of 3

III BRANCHES LAW, PLLC
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253-566-2510 ph

Joan K. Mell, WSBA #21319
Attorney for The Geo Group, Inc.

CERTIFICATE OF SERVICE

I, Joan K. Mell, hereby certify as follows:

I am over the age of 18, a resident of Pierce County, and not a party to the above action. On September 18, 2018, I electronically filed the above Declaration of Joan K. Mell, with the Clerk of the Court using the CM/ECF system and served via Email to the following:

ATTORNEY NAME & ADDRESS	METHOD OF DELIVERY
Office of the Attorney General La Rond Baker, WSBA No. 43610 Marsha Chien, WSBA No. 47020 800 Fifth Avenue, Suite 2000 Seattle, WA 98104 LaRondB@atg.wa.gov MarshaC@atg.wa.gov	<input checked="" type="checkbox"/> CM/ECF E-Service <input checked="" type="checkbox"/> E-mail
Norton Rose Fulbright US LLP Charles A. Deacon(Pro Hac Vice To Be File) 300 Convent St. San Antonio, TX 78205 (210)-270-7133 charlie.deacon@nortonrosefulbright.com	
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I certify under penalty of perjury under the laws of the State of Washington that the above information is true and correct.

DATED this 17th day of September, 2018 at Fircrest, Washington.


Joan K. Mell

A P P E A R A N C E S

For the Plaintiff:

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For the Defendant:

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Also Present:

ANYA PERRET

1 BE IT REMEMBERED that on the 10th of August,
2 2018, 9:06 a.m., at 1019 Regents Boulevard, Fircrest,
3 Washington, before LAURA A. GJUKA, CCR# 2057, Washington
4 State Certified Court Reporter residing at University
5 Place, authorized to administer oaths and affirmations
6 pursuant to RCW 5.28.010.

7 WHEREUPON the following proceedings were had,
8 to wit:

9 * * * * *

10
11 COLLEEN MELODY, having been first duly sworn by
12 the Court Reporter, was examined and
13 testified as follows:

14
15 EXAMINATION

16 BY MS. MELL:

17 Q State your name for the record.

18 A Colleen Melody.

19 Q What's your address?

20 A My business address is 800 Fifth Avenue, suite 2000,
21 Seattle, Washington 98104.

22 Q Okay. What's your personal address?

23 MS. CHIEN: Objection. Is there a reason
24 you need her personal address?

25 MS. MELL: Not if you're going to accept

1 floors, working in the barbershop, doing the other
2 things that GEO needs done in order for the facility to
3 operate, it can decide who to staff, it can decide how
4 to staff those positions. But when it does, when it
5 makes those decisions that all employers make about how
6 to schedule work, it needs to pay workers no less than
7 \$11 an hour. And it can pay more.

8 BY MS. MELL:

9 Q Do you understand that GEO makes the staffing decisions
10 or ICE?

11 A GEO is the employer here. So --

12 Q How are you deciding that?

13 MS. CHIEN: Objection, work product.

14 THE WITNESS: These are all legal
15 conclusions, but I'm happy to talk about those to the
16 extent that it helps us move things along. But GEO is
17 the employer because that's -- it falls under the
18 employer definition under Washington law. It's defined
19 as an employer because it permits to work employees.

20 BY MS. MELL:

21 Q Does the task that is undertaken have any bearing on
22 your analysis?

23 MS. CHIEN: Objection, work product.

24 THE WITNESS: I don't understand that one.

25 BY MS. MELL:

1 THE WITNESS: GEO profits monetarily
2 because it avoids having to pay the minimum wage or any
3 fair wage to workers and yet gets the full value of
4 their work.

5 BY MS. MELL:

6 Q And how does Attorney General Ferguson calculate the
7 full value of a detainee's work?

8 MS. CHIEN: Objection, it's work product.

9 THE WITNESS: The Attorney General's
10 office doesn't calculate that. The legislature sets it
11 or the people through their initiative lawmaking power
12 set the value of hourly work, at least at a minimal
13 level. GEO would have the authority, as I understand
14 it, to determine that a higher rate is the value of the
15 work. But there is a floor set by law.

16 BY MS. MELL:

17 Q What does the floor assume in terms of work performed?

18 MS. CHIEN: Objection, vague. Can you
19 restate the question?

20 THE WITNESS: I don't understand.

21 BY MS. MELL:

22 Q Does Attorney General Ferguson have the position that
23 the floor must be paid whether or not the work is
24 performed?

25 MS. CHIEN: Objection, work product.

1 MS. MELL: You may not give a speaking
2 objection. You may not instruct the witness. She has
3 already answered the question.

4 BY MS. MELL:

5 Q So what other factors, if any, that relate to
6 calculating how GEO has enriched itself?

7 MS. CHIEN: And I'm indicating to you,
8 this is an objection to work product. We're not --
9 based on the scheduling order, we're not at that point
10 we need to disclose that information.

11 THE WITNESS: I think there is a
12 calculation and an analysis that we will be producing.

13 BY MS. MELL:

14 Q What are the factors in that calculation?

15 MS. CHIEN: Objection, work product.

16 THE WITNESS: I think that that would be
17 disclosed in connection with our disclosure of an expert
18 report in this case.

19 BY MS. MELL:

20 Q Are you refusing to answer the question at this time?

21 A No. I'm saying that -- I'm saying that it's part of an
22 expert disclosure that hasn't happened yet. And --

23 Q What is Attorney General Ferguson's position?

24 MS. CHIEN: Objection, vague.

25 THE WITNESS: His position about the case

1 Q Did Attorney General Ferguson calculate based on the
2 profitability known to the office at the time it filed
3 suit what the unjust enrichment amount was?

4 MS. CHIEN: Objection, asked and answered.

5 THE WITNESS: The Office of the Attorney
6 General didn't have a precise calculation, in part
7 because we need information from GEO in order to
8 understand certain facts that will go into, I think,
9 expert analysis about the amount of the unjust
10 enrichment.

11 BY MS. MELL:

12 Q When Attorney General Ferguson filed the lawsuit, did
13 Attorney General Ferguson have a method of calculating
14 unjust enrichment?

15 MS. CHIEN: Objection, work product, asked
16 and answered.

17 THE WITNESS: I think that is work
18 product. Method of calculating something for pursuit of
19 investigation I think is work product.

20 BY MS. MELL:

21 Q You are refusing to answer the question on that basis?

22 A Yes.

23 Q Does Attorney General Ferguson have any case factors to
24 utilize in this matter that have been established in the
25 law for economic reality in detention for detainee